



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 113<sup>th</sup> CONGRESS, SECOND SESSION

Vol. 160

WASHINGTON, WEDNESDAY, NOVEMBER 12, 2014

No. 137—Part II

## Senate

NOMINATION OF LEIGH MARTIN MAY TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA—Continued

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Leigh Martin May, of Georgia, to be United States District Judge for the Northern District of Georgia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. WHITEHOUSE. Mr. President, would the Senator from West Virginia yield for a question? I would like to figure out what the floor process is because, as I follow all of this, it appears to be a colloquy between Senators MANCHIN, TOOMEY, ALEXANDER, and HARKIN. I am trying to get a sense for how long this colloquy might take so I know when I should be back on the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. MANCHIN. I can't speak for others. I will be about 3 to 5 minutes.

Senator HARKIN?

Mr. HARKIN. About the same—about 3 minutes.

Mr. MANCHIN. Senator TOOMEY?

Mr. TOOMEY. A good 20 minutes.

Mr. MANCHIN. I would say a good half hour.

Mr. WHITEHOUSE. And Senator ALEXANDER?

Mr. ALEXANDER. I will have about 20 minutes.

Mr. WHITEHOUSE. All right. Now I know.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

### CHILD PREDATOR LEGISLATION

Mr. MANCHIN. First, I wish to thank my good friend Senator PAT TOOMEY for working with me on this critical legislation to make sure our kids remain safe in every single school across this great country of ours. I am a father of three and grandfather of eight, and there is nothing more important to

me than protecting our children and grandchildren. Our bill is just common sense and has already passed by a voice vote with not one in opposition in the House.

This legislation makes sure all employees who work with our students pass a background check to make sure they have no criminal records or an abusive history. That includes everyone from principals, teachers, and secretaries to cafeteria workers and janitors.

Since January 1, 410 teachers across America have been arrested for sexual misconduct—just since January 1 of this year. That is more than one teacher per day who has sexually assaulted a student. And that only includes those who have been caught and detained. Do we dare wonder how many predators we could have prevented from harming our students if this bill had been passed years ago, including the outcome of the rape of a young West Virginia student named Jeremy Bell?

Twelve-year-old Jeremy was a fifth grade student from Fayette County, WV, who had been on an overnight fishing trip with his elementary principal when he mysteriously died from a head injury in 1997. Nearly 8 years later, investigators discovered that Jeremy was raped and murdered by none other than Edward Friedrichs, Jr. That was Jeremy's principal and supervisor on the trip. Thankfully, Mr. Friedrichs is now serving a life sentence in connection with Jeremy's death.

Although Jeremy's death is in and of itself disturbing, Mr. Friedrichs' past proves to be even more troublesome. Prior to working as Fayette County's principal, Mr. Friedrichs had previously been dismissed by a school in Delaware County, PA, on suspicion of sexual misconduct. That school then helped him land a new teaching position in Fayette County, WV. He taught for 26 years in West Virginia—26 years—before he was finally dismissed in 2001 when he was indicted for sexu-

ally abusing four boys—not one but four we know of.

This story is heartbreaking and simply unacceptable today. As a parent and grandparent and as a representative of the great State of West Virginia, inaction is not an option.

There are more than 4 million teachers and school staff employed by our public school districts across the United States. There are millions of additional workers who have direct access to students, including busdrivers, cafeteria workers, and janitors. Yet there is no national background check policy in place for the people who work directly with our kids everyday. Even worse, not all of our States require checks of child abuse and neglect registries or sex-offender registries. Not all of them. Some do. A lot don't. A recent report by the Government Accountability Office found that five States don't require background checks at all—nothing at all—for applicants seeking employment in our schools. In addition, not all States use both Federal and State sources of criminal data, such as a State law enforcement criminal database or the FBI's Interstate Identification Index.

Our bill would simply require mandatory background checks of State criminal registries, State child abuse and neglect registries, an FBI fingerprint check, and a check of the National Sex Offender Registry for existing and prospective employees.

Every child deserves to have at least one place where they feel safe and comfortable. For many of our kids these days, that place is at school.

This is truly a commonsense bill that aims to help protect our kids from sexual assault predators or any individual who inappropriately behaves in our schools.

It only makes sense that we do everything we can to allow our children to have one safe place in their life, and unfortunately that is our schools. If we can make even the smallest difference

• This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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in changing the outcomes of the lives of students like Jeremy Bell, then we have done our jobs.

I hope all my colleagues will consider this when they are thinking of saying: Well, we already do it in our State. Well, guess what, there are many States that do not for whatever reason. We are just asking to make it uniform across our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

UNANIMOUS CONSENT REQUEST—H.R. 2083

Mr. TOOMEY. Mr. President, I wish to thank my colleague Senator MANCHIN from West Virginia for his work on this, for being the lead Democratic sponsor on this very important piece of legislation. I also thank Senators MCCONNELL and INHOFE for cosponsoring the legislation. I would like to thank every single Member of the House of Representatives because every one of them voted in favor of this legislation.

I have a number of reasons I want to cite and develop in a series of arguments, Mr. President, but I understand the senior Senator from Iowa has some time constraints, so I will be cooperative in that respect and I will make a unanimous consent request at this time. I think Senator HARKIN will likely respond to that, and then I will make my arguments in favor of this legislation.

So at this time, Mr. President, I ask unanimous consent that the Senate vitiate cloture on the motion to concur in the House amendment to S. 1086, the child care and development block grant bill; that following the disposition of the Moss and May nominations, the Senate proceed to a vote on the motion to concur in the House amendment; and that following the disposition of S. 1086, the HELP Committee be discharged from consideration of H.R. 2083 and the Senate proceed to its immediate consideration, the bill be read a third time, and the Senate proceed to vote on passage of H.R. 2083.

The PRESIDING OFFICER. Is there objection?

The Senator from Iowa.

Mr. HARKIN. Mr. President, on behalf of Senator ALEXANDER and myself, I do object to the unanimous consent request.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN. Mr. President, I will take about 3 minutes, and I would like to thank my friend from Pennsylvania for being a gentleman and letting me have a few minutes to express myself before he gives his own expression of support for this bill.

First of all, I appreciate Senators TOOMEY and MANCHIN's interest in this issue. We have worked on this over the months to try to accommodate this legislation and to move it, but the issues are complex. The bill would affect millions of people. Members of the education and civil rights communities and others have raised legitimate concerns that we need to work through.

Members on both sides of the HELP Committee—which I am privileged to chair—have expressed hesitation about moving this absent constructive engagement by our committee.

Unfortunately, the Senator is asking us to take this bill without any debate or committee consideration. That, again, is a formula for bad legislation because recent steps have been taken by States to do their own background check requirements.

For example—I don't know this particularly—Pennsylvania recently enacted legislation to protect kids in school. We need to make sure that whatever we do here does not interfere with what the States themselves are doing. I think probably my colleague Senator ALEXANDER would address himself to that.

Again, this is the Child Care and Development Block Grant Act which passed 96 to 2 here in the Senate. In fact, the Senator from Pennsylvania supported the bill. It went to the House. They changed it a little bit, and then they passed it on a voice vote and sent it back to us. Now we are concurring in that vote in the House. Again, the bill is ready to go.

I would state for the record that back in September Senator ALEXANDER and I had offered the Senator from Pennsylvania a hearing on the bill and then an immediate markup. We would go to markup. What I could not guarantee the Senator from Pennsylvania was that his bill would come through as he wrote it. The committee sometimes makes decisions to change this or do that. I couldn't guarantee him that. What I could guarantee was a hearing and an immediate markup on the bill. But that did not seem to be acceptable to the Senator from Pennsylvania, and I understand.

Again, I just want the record to reflect that I am not unsympathetic to the goals of Senator TOOMEY and Senator MANCHIN on this issue, but I do believe it should go through the committee process. Since we are so close—we have worked on this Child Care and Development Block Grant Act a long time and it passed 96 to 2. The House added one little thing, and they passed it by voice vote; we agreed to that. We are ready to pass it and send it to the President.

We have had a great bipartisan working relationship on our committee thanks to our ranking member, Senator ALEXANDER, who will be taking over the chairmanship of this committee in January. I couldn't have asked for a better partner. We have a very diverse committee, but we passed 18 bills through our committee and signed by the President in the last 2 years. This will be the 19th.

So because we haven't had any markup on the amendment, that is why I am objecting—not that I am absolutely opposed to what the Senator is trying to do. But I do believe people on my committee deserve to have some input into this. Since I will be leaving, it will

then be Senator ALEXANDER's committee after the first of the year.

I thank the Senator from Pennsylvania for allowing me to speak first, and I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. TOOMEY. Mr. President, I thank the Senator from Iowa for his comments.

He cited I believe two principal arguments or concerns of his. One is the fact that this legislation has not yet been considered by his committee, and the second is that there are States taking action in various ways that ought to be contemplated. I am going to address both of those, but I would like to begin at what is, for me, the beginning.

Let me start by stating that I am a strong supporter of the Child Care and Development Block Grant bill. I voted for this bill in March, and I look forward to voting for it again. But one of the very reasons I support the bill is this bill that we are going to vote on, the Child Care and Development Block Grant bill, addresses the issue that I am trying to address in my bill, and that is protecting our children from sexual and violent predators.

I am the father of three young kids. I can't imagine anything more important than the safety and security of my kids, and I think most Americans would agree with me on that. While the Child Care and Development Block Grant bill takes an important step in that direction—it requires criminal background checks on daycare workers. And because it does, it is going to provide a level of protection for the 1.6 million children in federally-subsidized daycare—protection from the sexual and violent predators who might otherwise obtain jobs as childcare workers or employees of these daycare centers.

My question is this. Why are we stopping there? Why are we interested only in protecting the kids in federally-subsidized daycare? The 1.6 million there deserve protection, but what about the 49.6 million children who are a little bit older? They are in our Nation's elementary, middle, and high schools. Don't they deserve the same protection from sexual or violent predators as the really young kids do? I think we need to act now to protect all of our kids. That is what I am trying to do here, and it is a very urgent matter.

Senator MANCHIN talked of the absolutely horrendous case of Jeremy Bell. That is how I became aware of this situation. As Senator MANCHIN pointed out, it began in my State, Pennsylvania, and the terrible story ended in Senator MANCHIN's State.

When the perpetrator began molesting and abusing children, he was a teacher. He had molested several boys and raped one before the school figured out what was going on. Unfortunately, the prosecutors never felt they had enough evidence to actually bring a case. The school dismissed the perpetrator. But then, amazingly, this school in Pennsylvania helped this

monster get a job at a school in West Virginia. As Senator MANCHIN pointed out, he worked in West Virginia in exactly the same capacity, which gave him an opportunity to abuse more kids, and this tragic story didn't end until he raped and murdered a 12-year-old boy.

Well, justice has finally caught up with that teacher. He is going to spend the rest of his life in jail—which is, frankly, too good for him. But that is way too late for Jeremy Bell, his 12-year-old victim. Of course, now we know Jeremy Bell is not alone.

As Senator MANCHIN pointed out already, this year over 410 teachers and other school employees have been arrested across America for sexual assault or misconduct with children—410. That is more than 1 per day. And let's be clear. These are the people about whom we know enough and have enough credible evidence to actually have an arrest. How many more are out there but the prosecutors aren't confident yet that they can make a case?

In contrast to the 410 that have happened so far this year, back in April when Senator MANCHIN and I first came to the floor and asked the Senate to pass our bipartisan bill, at the time the number of teachers arrested was only 130. In the time we have waited, we have gone from 130 teachers and other school employees arrested for sexual misconduct with children to now over 410. How much bigger does this number have to get before the Senate decides this is something we should address?

Every one of these 410 stories represents a horrendous tragedy. One is a child whose abuse began at age 10 and only ended when, at age 17, she found herself pregnant with a teacher's child. Another is a teacher's aide who raped a mentally disabled boy in his care. Another is a kindergarten teacher who kept a child during recess and forced her to perform sexual acts on him. One teacher after another caught with images of child pornography on their computer—child pornography involving children as young as 1 years old. It is unbelievable stuff.

It is important, especially in my home State of Pennsylvania. Twenty-five of these arrested have been Pennsylvania teachers. A recent study found that Pennsylvania is second in the Nation for teachers who have been investigated for sexual misconduct with the children who are supposed to be in their care.

So I think we need to be acting now. We need to stop these tragedies. Our bipartisan bill, Protecting Students from Sexual and Violent Predators Act, takes an important step toward that goal. It works to ensure that school employees we hire are not sexual or violent predators. In fact, the background check provisions in our bill are nearly identical to the background check provisions in the Child Care and Development Block Grant bill, the one that we are going to vote on.

Specifically, the protecting students act requires background checks for all

existing and prospective school employees who have unsupervised access to children. The background checks must be thorough, covering four databases, including national databases. That would be the FBI fingerprint check, the National Crime Information Center database, the National Sex Offender Registry established by the Adam Walsh Act, the State criminal registries, and the State child abuse and neglect registries.

Now, let me give a recent example from the State of Alaska which illustrates just how important this requirement is. On August 29, Alaska State troopers arrested a middle-school teacher in Kiana, AK. The teacher had fled Missouri 4 years earlier to escape arrest.

Numerous witnesses accused the teacher over a decade of sexual and physical abuse of his own adopted children. This is hard to talk about because it is so disturbing, but I think we have to face it. The fact is he raped and starved his children. The children literally burrowed a hole in the wall, stole food from the freezer, and heated it on a furnace in their home just to survive. This monster was able to obtain a teaching certificate in Alaska and teach in the State for 4 years.

When asked how this could have happened, the Alaska Department of Education explained that Alaska only checks the State's criminal registry when running a background check on teachers. So his name never came up. Now, had Alaska searched the FBI criminal database, as my bill requires, the school would have learned that this monster was a fugitive in another State.

The protecting students act forbids schools from hiring a teacher who has committed certain crimes, including any violent or sexual crime against the child—whether a misdemeanor or a felony. This is necessary because all too often a predator will plead down to a misdemeanor when in fact he or she may be guilty of something more serious.

The legislation also bans the horrible practice of a school knowingly helping a child molester obtain a new teaching job somewhere else so that he becomes a problem somewhere else. This practice sounds outrageous, it sounds incredible, but it happens. In fact, it happens so frequently it has its own name. It is called passing the trash.

Finally, if the State fails to comply with these requirements, it loses a portion of its funds under the Elementary and Secondary Education Act.

I mentioned earlier that this is a bipartisan bill. It is, to say the least, bipartisan. Support is so broad, in the House it passed unanimously over a year ago, in October of 2013. It was introduced by Democrat GEORGE MILLER of California, cosponsored by two Republicans and seven Democrats, including FREDERICA WILSON of Florida, who herself served as an elementary school teacher and principal for 20 years,

CHARLIE RANGEL of New York, and SHEILA JACKSON LEE of Texas. Here in the Senate, it has the bipartisan support of Senator MANCHIN, Senator MCCONNELL, Senator INHOFE, and myself.

Child advocates across America have endorsed the bill. The National Children's Alliance, which oversees national child advocacy matters, the Children's Defense Fund, the National Center for Missing and Exploited Children, the Pennsylvania Coalition Against Rape have all endorsed this bill. Law enforcement and prosecutors all support this bill. The Federal Law Enforcement Officers Association supports it, as do the Association of Prosecuting Attorneys and the National District Attorneys Association.

Teachers support this legislation—the American Federation of Teachers, the Pennsylvania School Board Association.

So more than 1 year after the House passed this bill unanimously, why have we refused to act in the Senate? Well, some have argued that the Federal Government doesn't need to act because we can leave it to the States. Some States have worked to address this problem to the extent that they can. The Senator from Iowa mentioned that my home State of Pennsylvania has recently enacted legislation that deals with it. This is true—much to the credit of State Senator Tony Williams, a Democrat, and State Representative Dave Maloney, a Republican.

The bill makes much-needed reform to strengthen background checks and ban passing the trash within Pennsylvania. But as my friend, Pennsylvania State Senator Tony Williams, explained, under the U.S. Constitution States cannot address the problem of child predators being passed across State lines. The jurisdiction of Pennsylvania ends at the Pennsylvania borders. There is nothing Pennsylvania can do to make it illegal for someone in another State to send into Pennsylvania a predator of this sort. Of course, the example of Jeremy Bell is just exactly one such case.

Another example is this. Recently in Las Vegas, NV, a kindergarten teacher was arrested for kidnapping a 16-year-old girl and infecting her with a sexually-transmitted disease. The same teacher had molested 6 children, all fourth and fifth graders, several years before while working as a teacher in Los Angeles. The Los Angeles school district knew about these allegations. How do we know they knew? In 2009 the school district had recommended settling a lawsuit alleging the teacher had molested children.

The Nevada school district specifically asked if there had been any criminal concerns regarding the teacher. The Los Angeles school district not only hid the truth, but they provided three references for the teacher.

Had my bill banning passing the trash been the law, maybe that 16-year-old child might have been spared.

There is another fundamental reason I think the Federal Government has to act; that is, it needs to be accountable to the American taxpayer. When the Federal Government gives billions of dollars to States to help pay for the salaries of people who work with children, the Federal Government has a duty to make sure it is not paying the salary of child molesters. It is a basic accountability that every taxpayer, I would think, should demand.

Again, in this regard, our protect all students bill is nearly identical to the child care and development block grant bill that we are going to be voting on. Both the child care and development block grant bill and our protect all students bill act to create what is a voluntary mechanism for States to enhance their security. Both bills provide that if the State accepts Federal funds, the State government must pass the laws or regulations providing for the criminal background checks of persons who will work with children. Both bills provide that a State's compliance is essentially voluntary. A State that declines to improve its background checks forgoes Federal funds. Under the child care and development block grant bill, the State loses 5 percent of the funds under that bill. Under our protecting students bill, the State loses funds under the Elementary Secondary Education Act. Thus, both bills have the same worthy goal, the same principle of accountability for Federal funds. They even have the same basic enforcement mechanism.

Both bills were passed unanimously by the House of Representatives, the child care and development block grant bill 2 months ago on September 15, the protecting students bill over a year ago on October 22, 2013. If one bill has legal problems for being passed, so does the other, but in fact neither bill should be blocked. They both take the same approach and they both provide an urgently needed measure of security for our kids.

Others have argued and we heard the senior Senator from Iowa make the argument that the Senate should wait and let the committee of jurisdiction, the HELP Committee, consider the bill first. Well, it has been over 1 year now that the HELP Committee has chosen not to take any action on this bill. Senator MANCHIN and I have been working for months trying to pass this urgently needed legislation, but we have never been able to make progress with the committee.

On April 10 of this year Senator MANCHIN and I asked unanimous consent to pass our bill. The committee chairman objected. Next, the committee assured Senator MANCHIN and me that they would work with our staff and the committee would vote on the bill in July. The committee scheduled a vote on our bill in July, posted an announcement on its Web site that it was going to have a markup on this bill, and then at the last minute the committee removed our bill from the agen-

da, had no consideration of it, denied us a vote and we never got an answer as to why. Again, Senator MANCHIN and I were assured that the committee would vote on this bipartisan bill. We were told the committee would work with our staffs during the 5-week recess in August and provide a vote in September. But then the committee ignored our staffs during the August recess and there was no such consideration in September.

Now here we are 7½ weeks after we went on recess in September and I still have no confidence that the committee is going to take this up and move this legislation. In the meantime, of course, child predators have not been at rest. They have been moving on to new victims. Every day brings another story of a teacher arrested, another family whose child has been shattered and a family who has been torn apart by grief and betrayal.

I think the children of America have waited long enough, and I say no more waiting, no more promises about jurisdiction and process and procedures that don't take place, no more passing child molesters on to new schools and new victims, no more defenseless kids such as Jeremy Bell falling victim to other child predators, no more excuses for avoiding an up-or-down vote that passed the House unanimously.

Let's act now. Let's protect all our kids. Let's act now to protect the 1.6 million kids in the federally subsidized daycares as the child care and development block grant bill does. Let's pass that. I am for that. But let's also protect the 49.6 million kids who are in our elementary and middle and high schools. We can do this. We can do this tomorrow. We can do this tomorrow. We can pass them both tomorrow if we just have a vote, and we would send two bills to the President's desk. I am quite confident he would sign them both. He would sign the child care and development block grant bill and he would protect those 1.6 million kids and I am confident he would sign the Protecting Students From Sexual and Violent Predators Act, and then we would be protecting the 49.6 million slightly older kids.

I urge my colleagues to act now and get on with a vote.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I applaud the Senators from Pennsylvania and from West Virginia for their concern. Of course, every single Senator would like, as the Senator from West Virginia said, to make sure every single child is safe in every single school.

The question in my mind is, How does one do that? My mind goes back to a particularly horrific shooting in a school in the early 1990s and the country was revulsed by it and Congress acted. We are going to make every single school safe. So Congress passed the Gun-Free School Zones Act in about 1990, and the Supreme Court in a few

years held it unconstitutional under the commerce clause, which isn't a problem here, but I opposed that then—I was U.S. Education Secretary then—because the way to make every child and every school safe is not the job of the U.S. Senate and U.S. Department of Education. That is not the way to do it.

We have 40 million children, right. We have 100,000 schools, correct. We have 14,000 school boards. We have 100,000 principals. What this proposal would do is to put the U.S. Department of Education and the U.S. Congress—which currently has about a 10-percent approval rating—in charge of making every single child in every single school safer than the local school board can, than the local legislator can, than the local Governor can, than the local community can, than the parents can. If we want safe schools, that is the job of parents, communities, school boards, and States. It is not a duty to be bucked upstairs to the Senate and the Department of Education. That doesn't make Sam Houston Elementary School in Lebanon, TN, any safer. I don't think many parents would go home feeling better tonight in my hometown if they knew it was the Senate they were counting on to make their child safe in their school. Of course this is the right goal, but there is a better way to do that. There is a better way to do that.

The reason the Senator from Iowa and I offered to the Senator from Pennsylvania and the Senator from West Virginia an opportunity to have a hearing and a markup on this bill in September was we think we have a better idea, and that was simply to take the very well-meaning impulse that they have and change the direction in a fundamental way, which was to say instead of making every one of our 100,000 schools do this, and telling them how to do it, we will enable them to do it by giving them access to all the Federal registries by allowing them to use Federal title II money to do it, to use title II money for training. We thought we had a better way to get to the same goal, which is to make every single child safe.

All of us are horrified by these stories. So the question is, What is the best way to deal with it. Some people say let Washington do it.

I just went through a little reelection campaign in Tennessee. I don't think I had one person come up to me and say: Why don't you let Washington tell us what to do about the employment practices in our local schools. I don't think I had a single person come up and say: I think you guys in the Senate care more and know more about how to make every single child in every Tennessee school safer by your actions in Washington. They know better than that. In fact, they came up to me and said: Tell Washington to stop telling us what to do about our academic standards, Common Core. This is Common Core for employment practices. Stop

Washington from telling us what to do and about what the curriculum ought to be. Stop Washington from telling us what to do about training our teachers, about evaluating our teachers, about how long our class sessions ought to be, about how large our classes ought to be. We have proposals that come through this same committee. The President has one involving preschool that would create a national school board for preschool education. Class size, teacher salaries, length of school days, all those things would be decided by people with wisdom in Washington. I reject that. I would particularly object to that when I was Governor of Tennessee, which I was for 8 years.

If there were a horrific case in Tennessee of sexual predation in one of the schools, I wouldn't have phoned Washington to find out what to do about it. I would have called the legislature into session and done something about it. If I were to have found that I didn't have access to the Federal registries or any central registries, I would then have said to my U.S. Senator: Why don't you give us these tools to do it—which is what I would propose to do.

I ask unanimous consent to have printed in the RECORD a summary of a proposal I would make that would help every one of our 100,000 schools to do a better job of dealing with employment practices and criminal background checks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### PROTECTING STUDENT SAFETY ACT

Purpose: To protect student safety by allowing States to use federal funding under the Elementary and Secondary Education Act to establish, implement, or improve policies and procedures for implementing background checks of school personnel.

#### WHAT THE BILL DOES

Allows States or local school districts to use federal funding under Title II of the Elementary and Secondary Education Act to establish, implement, or improve policies and procedures on background checks for school employees to:

- conduct searches of appropriate State and Federal criminal registries, as determined by the State;

- implement policies and procedures that prohibit the employment of individuals who either refuse to commit to a background check, make false statements, or have been convicted of certain violent or child abuse related crimes, as determined by the State;

- establish implement, or improve policies and procedures concerning the timely disclosure, notice, and appeal of background check results;

- develop, implement, or improve mechanisms for assisting in the identification of and response to incidents of child abuse, including by providing training and development for school personnel; and

- implement any other activities determined by the State to protect student safety.

Precludes any private right of action if a school or school district is in compliance with State regulations and requirements.

Allows States and local districts to charge limited fees to school employees for the costs of processing and administering background checks, as required by State law.

#### REASONS TO SUPPORT THIS BILL

Support what most States are already doing—According to GAO, 46 States already

require background checks of some kind for all public school employees and 42 States have established professional standards or codes of conduct for school personnel.

Rather than mandating a one-size-fits-all approach for 14,000 local school districts and 100,000 public schools, provides States with flexibility to establish, implement, or improve background check policies and procedures that best meet State and local needs.

Supports State and local efforts to increase reporting of child abuse, limit the transfer of school personnel implicated in abuse, as well as provide training on how to recognize, respond to, and prevent child abuse in schools.

It will protect schools and local school districts from civil litigation resulting from background check decisions that are otherwise in compliance with State regulations and requirements.

Mr. ALEXANDER. This is a surprising development for me. I understand the terrible nature of the problem, but I think it is so important that we not lead the American people into thinking we could solve these community problems by asking Washington to do it. If we have an obstacle here, if there is no access to a registry, let's change that. I would love to have a Toomey-Manchin bill with their names on it to give every single school board, 100,000 schools the tools they need to do the job. But they should be accountable for it, not the Senator from Tennessee. They should be accountable for it.

ADM Hyman Rickover was the leader and inventor, really, of our nuclear Navy, and our nuclear Navy has never had a problem—never had a death I should say—from the reactors on our nuclear submarines. I think the reason is because Admiral Rickover hired every one of the captains. He told them: You have two responsibilities, one is the ship and one is the reactor. If something happens to the reactor, your career is over. I think putting the captain on the flagpole and making it clear whose job it is to be accountable for safe schools is a big part of it.

If we make it look as though somehow the Senate takes care of making a school in Pennsylvania or West Virginia or Tennessee safe because we passed some bill and wrote some regulation and caused everybody to fill out a lot of forms in the 46 States that already have criminal background checks of their own, then I think we have done a disservice. I think we have done a disservice. We had a recent example on legislation in our committee on compounding pharmacies. We had a terrible situation where a compounding pharmacy in Massachusetts, acting like a manufacturer, produced sterile products that weren't sterile, and as a result in Tennessee and many other States people were injected with unsterile drugs and they caught meningitis and they died. It was an awful disease and a terrible thing to happen. Part of the problem was who was on the flagpole, who was in charge. Was it the Food and Drug Administration or was it the State Control Board in Massachusetts?

Our legislation sought to clean that up and to make it clear that someone was accountable. I think the persons accountable for safe schools are the principal of the school, the local school board, the parents, and the students in that community. The rest of us can give them tools and remove obstacles and get out of the way. But the idea that we should pass a law, tell them how to do it, and inevitably write these complicated regulations that they have to fill out, that is not going to make every single child in every single school safer.

As I said when I began, the Senator's passion is evident. I respect that, and I respect him as a Senator. We don't have two better Senators in our body than the Senator from West Virginia and the Senator from Pennsylvania. They know I feel that way.

But I have a profound difference of opinion about this. I will say that if they wanted to consider this with the child care and development block grant, they have plenty of opportunity to do that. We have had a lot of complaining on our side of the aisle about the lack of what we call a regular order.

We say we have not been allowed to offer amendments, and that has been true. There has been a record-low number of amendments in this session of Congress, and the distinguished Senator in the chair has been among those who have pointed that out. But in this case, this was a model of how we should consider legislation. It was considered in the committees in the House and the Senate. This amendment was not offered in the committees in the House and the Senate. It then passed the Senate committee and came to the floor.

In March we had an open amendment process for anything that had to do with the bill. Fifty amendments were filed, and 18 amendments were considered and agreed to. There was no filling of the tree. There was no motion for cloture. There was simply an open amendment process and a vote. This amendment could have been offered then.

Let's put that off to the side. I think the more important discussion we need to have is who is in charge of these schools? Who should create the academic standards? If the U.S. Department of Education should be responsible for determining what the employment practices are in 100,000 public schools, then there should be no objection to the U.S. Department of Education ordering every school in America to adopt the Common Core or ordering every school in America to have a class size of X or ordering every school in America to pay teachers this much or determining, as this current Department of Education tries to do, how you should evaluate teachers in Pennsylvania, New Mexico, or Tennessee. I don't think that is the way our country was set up. I don't think that respects our constitutional framework. I don't think it is consistent

with the spirit, at least, of the 10th Amendment to the Constitution.

I do not think the American people—and I know Tennesseans don't—want Washington telling them how to run schools, and there is nothing more fundamental about running schools than telling 100,000 schools and their school boards and their Governors and their legislators and their parents what their employment practices ought to be. Plus, I don't think it will make the school safer. I think what will make it safer is a bill that has the courageous attention—as the Senator from Pennsylvania and West Virginia have given to the problem—that would give all those local organizations an opportunity to access the registries that are available, to deal with people who go across State lines, give them access to title II funding so they would have money for that and money for training. So it is a choice between mandating and enabling. I am on the side of local school boards, not a national school board.

While I respect the effort of the Senators and I believe the subject is urgently important for our country, I would prefer to see this matter considered with the Elementary and Secondary Education Act, which will be the first order of business in the new session of Congress, and I am chairman of that committee. Let's have a discussion about the best way to do that. Do a majority of the Senators on the committee really think Washington can do a better job of making every single child and every single school safe by mandating and ordering and regulating or does a majority of the committee in the Senate think that the Senators have called to us an important need where we might step in and make it easier for local school boards and State departments of education to update their programs—46 States already have them—and use Federal dollars to implement those programs? I prefer the latter; these Senators prefer the former. That is well worth discussing in the committee, and I look forward to doing that.

I came to the floor tonight to make clear that I see this as a fundamental difference of opinion, one that deserves attention, to show my respect for the Senators from Pennsylvania and West Virginia, and to offer the framework for what I think is a better idea for making every single child in every single school safe.

I thank the Presiding Officer, and I yield the floor.

The PRESIDING OFFICER (Mr. HEINRICH). The Senator from Pennsylvania.

Mr. TOOMEY. Mr. President, I find myself in the unusual position of disagreeing with the senior Senator from Tennessee. I have so much respect for the Senator. We are in agreement far more than we are in disagreement, but we do disagree about this, and I feel compelled to address several of the issues the Senator from Tennessee

raised, and then I will be finished. I know there are other Senators who would like to speak.

First of all, I think it is very clear that my bill no more creates a national school board than the child care and development block grant creates a national school board for childcare centers. It is the exact same set of circumstances, the exact same protections, and it is provided by the Federal Government.

I don't understand why, if it is OK for the Senate and the Federal Government of the United States to ensure greater security for children daycares, it is somehow not acceptable to provide that same level of security to kids who happen to be a little older. That is what we are talking about. I don't understand that.

The other point I would make is that, in fact, both bills—the child care and development block grant bill and my bill, the Protecting Students from Sexual and Violent Predators Act—are voluntary. Neither one has the power or attempts to compel a State to do a thing. It says: This is what we want you to do. If you don't, you are going to lose some funding, but that is it.

So there is absolutely a mechanism that creates an incentive, but we don't have the constitutional power to actually enforce it. Neither bill does. Both bills use the exact same mechanism to encourage compliance with a standard that will ensure greater safety and security for our kids.

Furthermore, I suggest that we absolutely have a responsibility to be concerned with how the money is spent. The taxpayers whom we represent expect us to provide some oversight and insist that there are some standards in the way the moneys are spent. That is a reasonable expectation for the Federal Government.

In addition, there is an element of this problem that can't be solved by any given State, and that is the cross-border nature of the problem. Specifically, the case of Jeremy Bell illustrates this perfectly—tragically but perfectly—and that is when a teacher leaves one State and goes to another State and commits the atrocities on a new set of victims. There is nothing the Commonwealth of Pennsylvania can do to make it illegal for another State to have a school that sends a letter of recommendation. The powers of Pennsylvania end at the border of Pennsylvania, and that is the case with all 50 States. So it seems to me that this, like other circumstances, simply requires a Federal solution.

Finally, I will say that my constituents are in many ways very skeptical of the Federal Government. There is no doubt about that, as Senator ALEXANDER observed with his constituents. But many of them are shocked to learn we don't have background-check requirements such as what my bill contemplates and what the child care and development block grant bill does. They are shocked to discover this is

not already the law. I think they would feel safer if they knew it was the law.

Mr. ALEXANDER. Mr. President, the Senator from Rhode Island is here, and it is his turn. I wish to make a few comments.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. There are a couple of differences. Under the Parliamentarian's ruling, this amendment is not under the block grant bill. No. 2, all the funding for the vouchers that go to mothers who may use the block grants for daycare while they go to work, which is what our bill is about, all comes from the Federal Government.

The whole principle of that bill—it is a pretty good Republican bill, in my view—is that there is a lot of flexibility. In fact, we had a pretty good debate about the criminal background checks in our bill. I would have preferred to have given the States more flexibility for the reasons I have stated, but I agreed to what was done. It has 100 percent Federal funding, whereas the Federal Government only funds 10 percent of our schools.

The penalties for not taking the Federal orders for what your personnel practices ought to be are much more severe in the bill from the Senator from Pennsylvania. He would cause you to lose 10 percent of your school funding. Under the childcare block grant, you would lose 5 percent of the Federal funding. But the issue remains the same, and it is a good issue.

I hear it on our committee. The Senator from Rhode Island is on that committee. He has heard Senator HARKIN and me argue about this. You can make a very good argument to say that we provide some money, therefore we ought to write some rules. So we are going to write the rules for personnel practices; we are going to write the rules for academic standards—also called Common Core; we are going to write the rules for qualifying how teachers should be evaluated. Even in our preschool programs, we are going to say what the rules are for class size and the length of the school day.

That sounds very good, but when you operate a school, you say: Who are these people? They might give me some tools, which we could do—and I would propose we do—or they might allow us to use some Federal money so we can have a better personnel practice, but we really don't think it works. We don't think that every time there is a horrific problem in our community, the Federal Government should step in and tell us how to fix it.

That is a really big difference, and it is particularly a big difference with schools, and it is a debate that will likely go on for some time.

I thank the Senator from Rhode Island for his patience.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. I found the discussion edifying, and it was time that was well spent.



## CLIMATE CHANGE

Mr. President, we are now reconvened after the election recess, and I am back on the Senate floor for the 79th consecutive week of Senate session to draw the attention of this body to the growing threat of global climate change.

I will first congratulate my Republican colleagues on achieving a majority in the Senate in the coming Congress. With control of the House and a majority in the Senate, Republicans now have great power in Congress. As the well-known saying goes, however, "with great power comes great responsibility."

The hallmark of the Republican minority was obstruction—often pointless obstruction, obstruction for obstruction's sake. A rational and fact-based focus on the issues has not been, to put it mildly, their hallmark. That was their choice, and it is the privilege of the minority party in the Senate to behave that way. The minority party in the Senate can choose to simply make themselves antagonists with no policy responsibility. I have to say they did an amazing job of that. But now my colleagues have a majority, and they have the power and the responsibility that comes with that beginning in January.

The touchstone of responsibility is to be responsible. I will concede the Senate could actually become a better place if the new majority, when it comes in, chooses to be responsible and the uniquely partisan obstruction that characterized their role as the Senate minority passes away as they move into the majority.

A key test to this, however, will be whether the Republicans here in the Senate choose to become responsible about climate change; about what carbon pollution is doing all around us, to our atmosphere and to our oceans; about what happens when carbon concentrations in the atmosphere that have varied between 170 and 300 parts per million for as long as we have been a species on this planet suddenly surge to 400 and beyond; about what happens when scientific laws that have been understood since Abraham Lincoln was riding around Washington, DC, in his top hat begin to impose their inexorable effects upon this world.

In the minority, they pretended it wasn't real. Some even said climate change was a hoax. Many said they were not scientists and so they couldn't do anything about it. I would note they are not gynecologists, either, but many have no hesitation about trying to regulate that area.

No one would work on doing anything serious about carbon dioxide emissions. It was not always this way. Republican Senator John Warner was the lead sponsor of the Warner-Lieberman climate bill. Republican Senator JOHN MCCAIN ran for President on a solid climate change platform. Republican Senator SUSAN COLLINS coauthored an important cap-and-dividend

climate bill with Senator CANTWELL. Republican Senator MARK KIRK voted for the Waxman-Markey cap-and-trade bill in the House of Representatives. Republican Senator JEFF FLAKE was an original cosponsor of a carbon fee bill led by former Republican Congressman Bob Inglis that would have placed a \$15-per-ton fee on carbon pollution in 2010, more than \$20 per ton in 2015, and \$100 per ton in 2040. Well, all of that ended. That and more ended shortly after the Citizens United decision when for the first time our elections were flooded with polluter money and flooded with dark money, which is probably polluter money, but because it is dark and anonymous, we don't really know.

So say you are not a scientist. Isn't the responsible thing to sound out scientific opinion? Scientific opinion about climate change is now firmly settled. Climate change is caused by the massive carbon pollution we have unleashed. Every major scientific society in our country knows this and has said so. Here is a list. If my colleagues want to, they can check with them. This is a list from a letter dated October 21, 2009—more than 5 years ago. We have been fiddling around on this since the science was so clear.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OCTOBER 21, 2009.

DEAR SENATOR: As you consider climate change legislation, we, as leaders of scientific organizations, write to state the consensus scientific view.

Observations throughout the world make it clear that climate change is occurring, and rigorous scientific research demonstrates that the greenhouse gases emitted by human activities are the primary driver. These conclusions are based on multiple independent lines of evidence, and contrary assertions are inconsistent with an objective assessment of the vast body of peer-reviewed science. Moreover, there is strong evidence that ongoing climate change will have broad impacts on society, including the global economy and on the environment. For the United States, climate change impacts include sea level rise for coastal states, greater threats of extreme weather events, and increased risk of regional water scarcity, urban heat waves, western wildfires, and the disturbance of biological systems throughout the country. The severity of climate change impacts is expected to increase substantially in the coming decades.

If we are to avoid the most severe impacts of climate change, emissions of greenhouse gases must be dramatically reduced. In addition, adaptation will be necessary to address those impacts that are already unavoidable. Adaptation efforts include improved infrastructure design, more sustainable management of water and other natural resources, modified agricultural practices, and improved emergency responses to storms, floods, fires and heat waves.

We in the scientific community offer our assistance to inform your deliberations as you seek to address the impacts of climate change.

Alan I. Leshner, Executive Director, American Association for the Advancement of Science; Timothy L. Grove, President, American Geophysical

Union; Keith Seitter, Executive Director, American Meteorological Society; Tuan-hua David Ho, President, American Society of Plant Biologists; Lucinda Johnson, President, Association of Ecosystem Research Centers; Thomas Lane, President, American Chemical Society; May R. Berenbaum, President, American Institute of Biological Sciences; Mark Alley, President, American Society of Agronomy; Sally C. Morton, President, American Statistical Association.

Kent E. Holsinger, President, Botanical Society of America; Kenneth Quesenberry, President, Crop Science Society of America; William Y. Brown, President, Natural Science Collections Alliance; Douglas N. Arnold, President, Society for Industrial and Applied Mathematics; Paul Bertsch, President, Soil Science Society of America; Mary Power, President, Ecological Society of America; Brian D. Kloeppel, President, Organization of Biological Field Stations; John Huelsenbeck, President, Society of Systematic Biologists; Richard A. Anthes, President, University Corporation for Atmospheric Research.

Mr. WHITEHOUSE. I could start with the body that was chartered 150 years ago, actually, to provide us independent, scientific, objective advice—the National Academy of Sciences. If that doesn't suit, try the American Association for the Advancement of Science or the American Physical Society or the American Meteorological Society or the American Geophysical Union or the American Medical Association or the American Chemical Society or the Geological Society of America. If none of my colleagues are scientists, check it out. Ask the responsible scientists. Ask the leading scientific societies.

If my colleagues don't believe the measurements—measurements confirm what the scientists know. Sea level is rising, and the rise is accelerating. We measure that with a glorified yardstick. It is already up nearly 10 inches at the Newport Naval Station since the 1930s when we in Rhode Island had the devastating hurricane of 1938. It is similar at Fort Pulaski in Georgia. Go visit Miami Beach, where they just spent hundreds of millions of dollars installing huge, 14,000 gallon-per-minute pumps to keep the city dry as the rising tides flood in.

The ocean is warming. We measure that with a thermometer. Narragansett Bay is nearly 4 degrees Fahrenheit warmer, mean water temperature, than 50 years ago. That is an ecosystem shift, and it has wreaked havoc with our winter flounder catch, for instance. Warmer waters aren't just in Rhode Island. They have brought the snook—a game fish from the Florida Keys—up into Georgia waters.

The ocean is more acidic, and it is getting more acidic at the fastest rate measured looking back millions of years in the geologic record. If my colleagues doubt that the ocean is acidifying, ask the oyster growers in the Pacific Northwest and Maine. Ask the scientists who study Alaska's salmon fishery about what is happening to

the pteropod, a key food source for salmon.

Here is my challenge to my Republican colleagues who say they are not scientists: Ask the scientists. Ask the scientists at your own home State universities. And ask the folks, by the way, employed by your outdoor industries—the people who see the changes happening around them. Ask your park rangers. Ask your forest rangers.

If a colleague is from North Carolina, ask the scientists at the University of North Carolina Institute of Marine Sciences.

If a colleague is from Colorado, ask the scientists at the National Center for Atmospheric Research in Boulder.

If a colleague is from Iowa, ask the scientists at the Center for Global and Regional Environmental Research at the University of Iowa.

If a colleague is from Arizona, ask the scientists at the University of Arizona, which hosts the Climate Assessment for the Southwest Program.

If a colleague is from Florida, ask the scientists at the University of Florida's Climate Institute.

If a colleague is from Texas, ask the scientists at the Texas Center for Climate Studies at Texas A&M. The Aggies get climate change. Check it out.

If a colleague is from New Hampshire, ask biologist Eric Orff, who worked for the New Hampshire Fish and Game Department for 30 years, what is happening to the moose. Ask Mike Bartlett of the New Hampshire Audubon Society what is happening to the purple finch, the State bird.

If a colleague is from Utah, ask the Park City Foundation and, while colleagues are at it, employees at Alta Ski Area, Canyons Resort, Deer Crest, Skier Valley, or Park City Mountain Resort what they foresee for that industry.

If a colleague is from Idaho, ask University of Idaho Professor Jeffrey Hicke how rising temperatures let loose the bark beetle and decimated almost 1,000 square miles of the iconic mountain pine forests.

If my colleagues like big business, if they think only the private sector knows anything, then ask the big property casualty reinsurers such as Munich Re or Swiss Re, who have billions of dollars at stake and have to get this right.

If a colleague is from Georgia, ask the folks from Coca-Cola. If a colleague is from Arkansas, ask the folks from Walmart. If a colleague is from North Carolina, ask the folks at \$30 billion clothing maker VF Corporation. They all have a lot of money riding on getting this right, and they are making decisions based on business, not on ideology. So ask them.

If my colleagues trust the military, ask ADM Samuel Locklear, commander of U.S. Pacific Command, who says climate risk is the most dangerous long-term challenge we face in the Pacific.

If my colleagues are looking for some pretty good high-level scientists, they might want to ask NASA and NOAA. Remember NASA? They put a rover safely on the surface of Mars, and they are driving it around on Mars. Do my colleagues think they might know what they are talking about?

If my colleagues need to hear it from Republicans, ask former Republican Treasury Secretaries, such as George Shultz and Hank Paulson. Ask former Republican EPA Administrators such as Bill Ruckelshaus, Christine Todd Whitman, William Reilly, and Lee Thomas. Ask James Brainard, the Republican mayor of Carmel, IN. Ask Bob Dixon, the Republican mayor of Greensburg. Ask Betty Price, the Republican mayor of Fort Worth, TX. Ask Republican mayor Sylvia Murphy and county commissioner George Neugent of Monroe County, FL.

If my colleagues are not scientists, just ask. Do your homework. Exercise this new great responsibility that will come with the great power you have won. But don't pretend climate change isn't real. Even your own young voters know better than that. A majority of Republican voters under age 35 think a politician who denies climate change is ignorant, out of touch, or crazy. Those were the words checked off in the poll. To paraphrase Michael Corleone from that great movie, "Don't tell me it isn't real, because it insults my intelligence and it makes me very angry."

To our Republicans, I say I want to be your best friend in all of this, the kind of best friend who tells you when you are in no shape to drive and should hand over the keys until you are sober enough to drive safely even if it makes you mad to hear it, the kind of friend who will tell you the truth you need to hear but don't want to hear. And let me say, friends don't let friends deny climate change.

I know the big carbon polluters want this issue to be ignored. But responsibility is knowing when to tell even your friends no. Responsibility is doing what is factual and is based in real science and measurement. Responsibility is doing what is right for your State and for your country in the long run, not just what rewards your supporters—even those really big supporters—in the short run.

Maybe as their friends you might even want to have a little conversation with them because this is only going one way. As Pope Francis just said, God is not "a magician with a magic wand." He put laws of the universe, laws of nature in place, and we don't get a pass on them just because it is politically convenient. How long does ExxonMobil think it can pursue unsustainable fossil fuel goals by fixing the politics? Laws of nature can't be bought or repealed. The Koch brothers are rich enough to buy virtually anything, but even they can't buy new laws of nature. BP went and quietly shut down its solar and wind programs, but carbon still does what carbon does.

As your friends, they might need a little intervention from you.

Just so you know, I am not going anywhere. I have homes and businesses being swept into the ocean in my State. I have fishermen who tell me it is getting weird out there in Rhode Island Sound, that the lobsters and fish aren't where they are supposed to be when they are supposed to be there, that they are catching the kinds of fish their fathers and grandfathers never saw in their nets.

It is getting weird out there. I am not going anywhere. My State is small and coastal, and worse, bigger storms put us in serious danger. I am not ever going to ignore that. I am never going to walk away from this issue. I will never deny what Rhode Islanders see right in front of their faces and what all our expert warnings tell us is only going to get worse.

If you are going to be responsible and not just powerful, you won't deny this issue and walk away either. I promise you this. One way or another, we are going to get this done.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PARAGUAY

Mr. LEAHY. Mr. President, a common reality that permeates the complex and colorful history of Latin America is large numbers of landless, impoverished people and small elites who control the majority of the land and the country's wealth, often exploiting its natural resources for personal gain.

While the significant growth of the middle class in some South American countries over the past decade is encouraging, nowhere is the disparity of land ownership more pronounced than in Paraguay, a landlocked country of 6.5 million people that rarely receives the attention of the U.S. Congress.

A few statistics tell the story. Some 80 percent of agricultural land in Paraguay is owned by just 1.6 percent of the landowners, and the 600 largest properties comprise 40 percent of the total productive land. Meanwhile, a third of a million small farmers have no land at all. It should surprise no one that 40